REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-11 and 13-15 are presently active in this case. The present Amendment amends Claims 1, 5, 8-10 and 13; and cancels Claim 12.

In the outstanding Office Action, Claims 10 and 12-15 were rejected under 35 U.S.C. § 103(a) as unpatentable over Ching et al. (U.S. Patent No. 5,808,563). Claim 11 was rejected under 35 U.S.C. § 103(a) as upatentable over the Ching et al. patent in view of Kelly et al. (U.S. Patent No. 4,910,513). Claims 1-15 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over Claims 1-2 and 4-12 of co-pending Application No. 10/261,484.

In response to the provisional rejection of Claims 1-15 under the judicially created doctrine of double patenting, Applicant herewith files a terminal disclaimer in compliance with 37 C.F.R. § 1.321 thereby removing any issue of the double patenting without respect to Claims 1-15. For the record, Applicant notes that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."[1]

In an Office Action dated October 19, 2004, and pertaining to co-pending Application No. 10/261,484 (the parent Application), Claims 1, 2, and 4-9 of the parent application were allowed in response to an Amendment filed on June 28, 2002.

Claims 1-9 of the present application were only provisionally rejected for double patenting and were not objected over the prior art. However, in light of the initial position of the Examiner in the parent application, the subsequent allowability of amended Claim 1 in the parent application, and in the spirit of moving prosecution forward for the present

[1] Quad Environmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870, 874, 20 USPQ2d 1392, 1394-5 (Fed. Cir. 1991).

application, Applicant has amended Claim 1 of the present application is amended to include a similar features of the one added to allowed Claim 1 via the June 28, 2002, Amendment filed in the parent application.

More specifically, Claim 1 now recites that a distance between the first characteristic sign and the second characteristic sign is proportional to the first longitudinal margin of maneuver. Claim 5 has been amended accordingly. Being a feature originally recited in the claims, this feature finds non-limiting support in the disclosure as originally filed. The Ching et al. and Kelly et al. patents do not teach the combination of features recited in amended Claim 1. Accordingly, having filed a terminal disclaimer, Applicant respectfully submits that Claims 1-9 of the present application are allowable.

In response to the rejections of Claims 10 and 12-15 based on the prior art, independent Claim 10 is amended to incorporate the feature of Claim 12. More precisely, Claim 10 now recites the steps of determining a margin of maneuver of the aircraft based on a speed of the aircraft in a pitch-down maneuver and based on an angle of incidence of the aircraft in a pitch-up maneuver. In light of this amendment, Claims 10 and 13-15 are believed to be patentably distinct over the prior art, as discussed next.

The Office Action states at page 3, regarding Claim 12, that it would have been obvious based on the Ching et al. teachings that the maximum permissible deviations for the speed vector in the longitudinal direction comprises top and bottom portions of the displayed margin of maneuver respectively related to pitch-up and pitch-down maneuvers since "a pitch-up or a pitch-down maneuver would result in movement of the speed vector sign 50 towards the top portion or bottom portion of the maximum permissible deviation sign 51, respectively." Applicant respectfully disagrees and submits that even if these assertions were supported, they merely suggest a correlation between an upward or downward movement of the speed vector and an actual pitch-up or pitch-down maneuver. Such a suggestion is

insufficient to meet the claimed step of determining a margin of maneuver of the aircraft based on a speed of the aircraft in a pitch-down maneuver and based on an angle of incidence of the aircraft in a pitch-up maneuver.

Therefore, Applicant respectfully submits that the Ching et al. patent does not teach the aforementioned step of Claim 10 as discussed above. Moreover, the Kelly et al. patent, directed to an apparatus and method for displaying symbols on an aircraft attitude indicator does not teach this feature either. In the Kelly et al. patent, the pitch limit symbol "is located above the aircraft symbol [at] a distance which is a function of a calculated margin between the current angle of attack of the aircraft, and that angle of attack which causes onset of stall warning."[2] The Kelly et al. patent further states that "the pitch limit symbol 40 has only one location corresponding to one limit."[3] It is therefore clear that the Kelly et al. patent is limited to a single limit (and a single type of maneuver associated with the single limit) and to the use of an angle of attack in the processing of the maneuver. Accordingly, the Kelly et al. patent does not teach "determining a margin of maneuver of the aircraft based on speed of the aircraft in a pitch-down maneuver and on an angle of incidence of the aircraft in a pitch-up maneuver" either. Therefore, the Ching et al. and Kelly et al. patents, whether taken alone or in combination, do not teach this feature of amended Claim 10. Independent Claim 10 and dependent Claims 13-15 are thus patentable over the Ching et al. and Kelly et al. patents.

In response to the rejection of dependent Claim 11, Applicant respectfully submits that the rejection is moot is light of amended independent Claim 10 since the Ching et al. and Kelly et al. patents, alone or in combination, do not teach the aforementioned step of independent Claim 10.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in

---

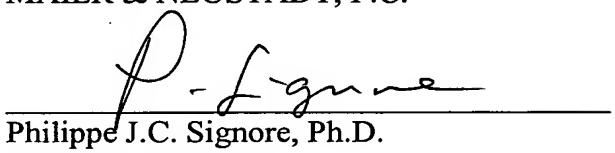
[2] See the Kelly et al. patent at col. 2, lines 44-48.
[3] See the Kelly et al. patent at col. 5, lines 34-35.

condition for formal Allowance. A Notice of Allowance for Claims 1-11 and 13-15 is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicant's undersigned representative at the below listed telephone number.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Philippe J.C. Signore, Ph.D.
Attorney of Record
Registration No. 43,922

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

PJS/CDA/kke:hri
I:\ATTY\CDA\240-249\245502\254402US.AM1.DOC